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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,530	03/29/2004	Jonathon Loew	203.1013	2262
21831 7590 12/21/2006 WOLF BLOCK SCHORR AND SOLIS-COHEN LLP 250 PARK AVENUE NEW YORK, NY 10177			EXAMINER ELKINS, GARY E	
			ART UNIT 3782	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			12/21/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/811,530

Applicant(s)

LOEW, JONATHON

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-17 is/are allowed.
- 6) ☒ Claim(s) 1-9, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, "said locking tabs" lacks antecedent basis in the claims. Only a single locking was previously positively defined in claim 1.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-3, 7, 12 and 13 are rejected under 35 U.S.C. 102(a) as being anticipated by Espinoza et al (fig. 8 emb). Espinoza et al discloses a display carton including a corrugated board assembly 80 and a clear front wall 81. The board assembly includes two bottom horizontal walls 87, a slit 88 and a locking tab 83. With respect to claim 3, the height of the clear front wall is less than the height of the back and side walls by the spacing of the top edge of the front wall downwardly from the top edges of the side walls and by the spacing upwardly of the bottom edge of the front wall evidenced by the location of the slot 88. With respect to claim 12, note is made that the clear plastic front wall in Espinoza et al includes a flat unassembled state, i.e. the front wall is formed from a flat horizontal web or layer of material prior to attachment of the front to the container in a vertical position or state.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Espinoza et al (fig. 8 emb) in view of McQueeny. Espinoza et al discloses all structure of the claimed carton except formation of the front wall from a foldable plastic material or formation of the tabs (83 and the side tabs) with a foldable crease line. McQueeny teaches that it is known to make the tabs on a clear plastic front wall of a display container with crease lines (58) to facilitate folding the tabs from a flat position to a use position. It would have been obvious to make container from foldable plastic material and to make the tabs on the clear plastic front wall of the container in Espinoza et al with foldable crease lines as taught by McQueeny to allow easier storage of the lid(s) in a flat condition prior to use.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 4 above, and further in view of Crysdale or Callendar et al. Modified Espinoza et al does not evidence formation of the transparent window from PETG. Each of Crysdale and Callendar et al teaches that it is known to make transparent plastic from PETG. It would have been obvious to make the window material in modified Espinoza et al using PETG as taught by either Crysdale or Callendar et al since PETG provides good flexibility and good formability.

7. Claim 8, as best understood in view of paragraph 1 above, is rejected under 35 U.S.C. 103(a) as being unpatentable over Espinoza et al in view of Hookins (UK '032). Espinoza et al

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discloses all structure of the claimed container except a plurality of tabs and slots. Hookins teaches that it is known to form an interlock using multiple tabs and slots and opposed to one single continuous tab and slot interlock. It would have been obvious to make the interlock (83, 88) in Espinoza et al using a plurality of tabs and slots as taught by Hookins as a mere selection of the number of tabs and slots desired to connect the portions together and to provide a stronger interlock of the parts.

Allowable Subject Matter

8. Claims 14-17 are allowed.

9. Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to claims 1-9, 12 and 13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

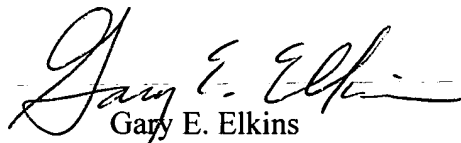
11. The remaining newly cited prior art illustrates similar container constructions known in the art.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
10 November 2006